

NO. 19-CI-007383

JEFFERSON CIRCUIT COURT
DIVISION SEVEN (7)
JUDGE AUDRA J ECKERLE

JOHN BURGRAFF

PLAINTIFF

vs.

**DEFENDANT LOUISVILLE/JEFFERSON COUNTY 'S ANSWER TO
PLAINTIFF'S COMPLAINT**

Electronically Filed

LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT

DEFENDANT

Comes the Defendant Louisville/Jefferson County Metro Government (“Louisville Metro”), by and through counsel, and for its Answer to Plaintiff’s Complaint, hereby states as follows:

First Defense

- 1. Complaint fails to state a claim upon which relief may be granted.

Second Defense

- 2. Defendant admits the allegations contained in paragraphs 1, 2, 4, and 30 of the Complaint.
- 3. Paragraph 5 of the Complaint is not a complete sentence and non-sensical; thus, to the extent paragraph 5 can be determined to have made allegations, Defendant denies the same.
- 4. The allegations contained in paragraphs 3 and 35 of the Complaint are legal conclusions to which no response is required. To the extent allegations are made therein, Defendant denies the same.
- 5. Defendant denies the allegations contained in paragraphs 27, 28, 34, 36, 38, 39, 40, 42, 43, 45, and 47 of the Complaint.

6. Defendant has insufficient information regarding the allegations contained in paragraphs 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 29, and 31 of the Complaint and therefore, denies the same.

7. The Chief's order for an investigation as referenced in paragraph 10 of the Complaint shall speak for itself and thus, the Defendant admits to the content of the Chief's order. Defendant has insufficient information to either confirm or deny the remaining allegations of paragraph 10 of the Complaint and therefore deny the same.

8. Defendant admits the allegations contained in paragraph 15 of the Complaint to the extent that Lt. Russell was at some point assigned to the Training Division. To the extent there are allegations remaining in paragraph 15 of the Complaint, Defendant denies the same.

9. Plaintiff's email and resume submission in application for the PIO position as referenced in paragraph 25 of the Complaint shall speak for itself; thus, Defendant admits to the contents of Plaintiff's email and resume. Defendant denies the remaining allegations contained in paragraph 25 of the Complaint.

10. Defendant admits that Jesse Halladay is a civilian employee and supervisor of PIO as referenced in paragraph 26 of the Complaint. Defendant denies the remaining allegations contained in paragraph 26 of the Complaint.

11. Defendant admits the allegations contained in paragraph 32 of the Complaint are Plaintiff's allegations and his belief about the same but denies the truth of Plaintiff's allegations and belief.

12. Defendant denies that discriminatory behavior occurred as referenced in paragraph 37 of the Complaint but has insufficient information to confirm or deny the remaining allegations of paragraph 37 and therefore, deny the same.

13. Defendant has insufficient information to either confirm or deny the allegations relating to Plaintiff's suffering as referenced in paragraph 44 of the Complaint, and therefore denies the same. Defendant further denies that the allegations of paragraph 44 of the Complaint as they relate to Plaintiff's suffering were the direct and proximate result of aforementioned conduct.

14. Each allegation of the Complaint not herein expressly admitted is denied.

Third Defense

15. Defendant, upon receiving the Plaintiff's reports of misconduct, took appropriate and timely steps for the protection of the Plaintiff and the investigation and potential discipline of the offending employee.

Fourth Defense

16. Punitive damages are not recoverable against Defendant.

Fifth Defense

17. Defendant expressly reserves the right to file further pleadings and assert additional defenses as the proof develops.

Sixth Defense

18. Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer or to avoid harm otherwise.

Seventh Defense

19. Conduct complained of by Plaintiff is not harassment and even if it was, it is not legally cognizable or so severe or pervasive enough to constitute a hostile work environment.

Eighth Defense

20. Plaintiff's claims are barred by applicable statute of limitations.

Ninth Defense

21. Plaintiff's claims are barred for the failure to exhaust his remedies.

Wherefore, Defendant demands judgment as follows:

1. That the Complaint be dismissed and held for naught;
2. For its costs herein expended; and
3. For any and all other appropriate relief to which it may appear entitled.

Respectfully submitted,

MIKE O'CONNELL
JEFFERSON COUNTY ATTORNEY

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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing was electronically filed via the Court's ECF system which automatically sends copies to all parties of record and mailed this 24th day of February 2020 to the following by US mail, postage prepaid:

Thomas Clay, P.S.C.
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